

# Meeting #3 – Business Enterprise Program (BEP)

## Worksheet Results Summary

Total responses received: 13

Five task force members participated. Co-chairs who are facilitating task force operations and compiling final report did not participate.

This task force is information gathering only. Full responses will be submitted with the final report. The Joint Legislative Oversight and Sunset Committee (“JLOSC”) will meet in January 2020 to review the final report.

<b>Tabled Recommendation</b>	<b>JLOSC should NOT consider</b>	<b>JLOSC should consider as written</b>	<b>JLOSC should consider WITH modifications</b>	<b>No Response</b>
Rec. 7 – BEP Regulations	1	7	5	
Rec. 8 – Removal Process for Members of the BEP, Blind Vendors Committee Board	1	7	5	
Rec. 9 – BEP, Blind Vendors Committee Training Opportunities	1	7	5	
Rec. 10 – Implementation of BEP Audit Recommendations	1	10	1	1
Rec. 11 – BEP Set-Aside Requirements	2	6	5	
Rec. 12 – BEP Public Outreach	2	9	2	
Rec. 13 – Remove BEP from State Payroll and Pension Systems	3	3	6	1
Rec. 14 – Strengthen State’s Licensing Authority under the Randolph-Sheppard Act	0	8	5	
Rec. 15 – Strengthen Business Programs	0	8	5	

### Final Report Participation Deadline: Friday, November 8, 2019

If you did not submit a response you may do so by the final report participation deadline. Blank worksheets are on the task force website, Survey Monkey option is available (can be anonymous), or you may submit written comments to the task force co-chairs.

Task force website: <https://bit.ly/2H0lhWC>

## **Meeting #3 –BEP Worksheet (Response Summary)**

### **Rec. 7 – Business Enterprise Program (BEP) Regulations:**

There currently are no regulations governing the BEP. DVI shall direct the BEP to promulgate regulations to implement and operate the program. The regulations shall include provisions related to all of the following:

- a. Participant eligibility.
- b. Personnel management.
- c. Fiscal controls.
- d. Marketing plans.
- e. Enforcement of production quality standards as stated under § 7929, Title 29.
- f. Set-aside requirements and procedures for Blind Operators.

### **■ JLOSC should consider with modifications**

**5 out of 13 respondents selected this option, response summary:**

- Regulations should include provisions related to all of the following:
  - a. Participant Eligibility.
  - b. Licensing.
  - c. Training.
  - d. Promotions and Transfers.
  - e. Reporting Requirements.
  - f. Set Aside.
  - g. Fiscal Control.
  - h. Elected Committee of Blind Vendors.
  - i. Enforcement of production quality standards as stated under § 7929, Title 2.
  - j. Implementation of the statutory priority to establish vending facilities on public property.
- Fiscal controls should include an annual audit from an outside source.
- Consult with subject matter experts to insure compliance with the Randolph Shepherd Act.

- The rules and regulations are currently being revised and the Blind Vendors Committee (“BVC”) have been using the policies to further strengthen the rules.
  - The items in the BVC’s draft recommendation have been strengthened by policy that is now at the federal level waiting to be approved.
  - No regulation or policy that is written by BEP in agreement with the BVC can be implemented until it is approved by the Department of Education in Washington D.C.
    - Delaware BVC policies have been waiting approval for over two years due to the back log in D.C.
      - This is consistent with all other states.
- DVI should promulgate rules and regulations to implement and operate the BEP program. The regulations must align with the Randolph Sheppard Act.
  - Some items listed in the draft recommendation may be more effective in policies and procedures.
- The BEP program currently has rules but should contain the missing elements identified in the draft recommendation.
  - All changes must occur according to State and Federal regulations, which include public notice requirements.
- Financial reports should include all BEP operations including food trucks and cafeterias.
  - All activity should be recorded and reported.
  - All account transfers should be included in program financial reports, this includes account summary sheets.
- The BEP program information should be provided quarterly to the Commission for Statewide Contracts to Support Employment to Individuals with Disabilities for inclusion in their annual report.
  - This would also ensure that the program is in compliance with set-aside regulations and guidelines.

- Quarterly reported information should also include the following:
  - All new locations established.
  - Number of new blind operators in the program.
  - Any closed locations.
  - Number of blind operators in training.

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- a. Participant eligibility.
- b. Personnel management.
- c. Fiscal controls.
- d. Marketing plans.
- e. Enforcement of production quality standards as stated under § 7929, Title 29.
- f. Set-aside requirements and procedures for Blind Operators.

### **■ JLOSC should not consider**

**1 out of 13 respondents selected this option, response summary:**

- There are federal regulations, state regulations, and policies that cover the items in this draft recommendation.
- Federal and state regulations and policies require active participation in all aspects of the BEP by the BVC.
- The by-laws are the sole responsibility of the Blind Vendors Committee.

## **Meeting #3 –BEP Worksheet (Response Summary)**

### **Rec. 8 – Removal Process for Members of the BEP, Blind Vendors Committee Board:**

DVI shall direct the Business Enterprise Program, Blind Vendors Committee to adopt member removal and conflict of interest provisions in the committee's by-laws.

### **■ JLOSC should consider with modifications**

#### **5 out of 13 respondents selected this option, response summary:**

- This can be better addressed in the regulations. DVI can encourage or with the active participation of the Committee, incorporate such requirements into the regulations.
- Revise by-laws to include term limits of officers.
- Revise by-laws to address conflicts of interest.
- This would have to be agreed upon by the BVC.
  - There is a draft copy relating to this draft recommendation and to date the BVC does not have agreement on the document.

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#### **■ JLOSC should not consider**

#### **1 out of 13 respondents selected this option, response summary:**

- Changes to the BVC committee by-laws requires a vote of approval from the licensed blind operators.

## **Meeting #3 –BEP Worksheet (Response Summary)**

### **Rec. 9 – BEP, Blind Vendors Committee Training**

#### **Opportunities:**

DVI shall offer training opportunities to and encourage the participation of the BEP, Blind Vendors Committee members in order to support and expand the program.

#### **■ JLOSC should consider with modifications**

#### **5 out of 13 respondents selected this option, response summary:**

- Consider offering BEP as a Career and Technical Education (“CTE”) program in high school to recruit future vendors.
- DVI must accept responsibility for exploring/expanding training opportunities, through the request for proposal (“RFP”) process.
- Training should be mandatory for all blind vendors through the National Association of Blind Vendors and/or RSVA (ACB) Sage Brush.
- The BEP annual report should be included in the State Use Law Committee report, which provides a snapshot to the legislature.
- DVI should implement measureable performance standards and goals in order ensure compliance with the recommendation.
- BEP program would benefit from a training program that included an instructor.
  - The Hadley School has a training program for the Randolph Sheppard Act.
  - Delaware’s program does not have an instructor.
    - Hadley school teaches federal, perhaps they could teach for the state or the state could partner with them.



- A national expert provides yearly training to all BEP operators.
  - Upward mobility training is done locally.
  - There are quarterly trainings offered for BEP.
  - On a national level, the BEP operators are offered to attend Business Leadership and Superior Training (“BLAST”). This training is offered every 18 months, with some small or mini-BLAST given in between.
- DVI is the State Licensing Agency of the BEP program and holds all contracts and permits for BEP locations.
  - There is no provision for equipment ownership for a blind operator.
  - DVI controls all program funds and disbursements.
    - DVI must be held accountable.
  - BVC only provides active participation as outlined in federal regulations.

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DVI shall offer training opportunities to and encourage the participation of the BEP, Blind Vendors Committee members in order to support and expand the program.

#### **■ JLOSC should not consider**

**1 out of 13 respondents selected this option, response summary:**

- DVI already offers training opportunities and encourages participation.

## **Meeting #3 –BEP Worksheet (Response Summary)**

### **Rec. 10 – Implementation of BEP Audit Recommendations:**

DVI shall implement all recommendations that were included in the BEP audit that was completed by Cover and Rossiter. DVI shall provide JLOSC with implementation status updates [by specific date or on specified periodic basis].

### **■ JLOSC should consider with modifications**

**1 out of 13 respondents selected this option, response summary:**

- BVC has audit policies that include internal audits in place to resolve any issues of concern.
  - There is a weekly account status and reconciliation with the BVC Chairman to discuss expenditures and revenue for the program.
- The BEP audit was limited in scope and did not investigate program losses.
  - The State auditor should conduct an audit of the program.
- The State Auditor of Accounts (AOA), DHSS Division of Management Services (DMS), or another outside agency should provide accounting best practice suggestions and to develop a plan to implement changes to ensure that fiscal procedures are in place to minimize any mismanagement of program funds, fraud, waste, abuse, or theft and increase proficiencies.
  - A determination should be made regarding whether BEP accounting services should be removed from DVI.

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DVI shall implement all recommendations that were included in the BEP audit that was completed by Cover and Rossiter. DVI shall provide JLOSC with implementation status updates [by specific date or on specified periodic basis].

#### **■ JLOSC should not consider.**

**1 out of 13 respondents selected this option, response summary:**

- The appropriate changes have been implemented by the BVC.

## **Meeting #3 –BEP Worksheet (Response Summary)**

### **Rec. 11 – BEP Set-Aside Requirements:**

DVI shall review current set-aside requirements, determine whether they are adequate, and pursue appropriate remedies for inadequacies.

### **■ JLOSC should consider with modifications**

#### **5 out of 16 respondents selected this option, response summary:**

- This would constitute a major administrative decision and, therefore, requires the active participation of the Committee of Blind Vendors.
  - Should insert the words, “With the active participation of the Committee of Blind Vendors,” at the beginning of the sentence in the draft recommendation.
- A consultant, which has sales forecasting and small business administration experience should be part of the team that reviews the set-aside process.
- DVI is not currently equipped to implement this recommendation because it lacks the skill set and objectivity required.
- An administrative action such as this requires active participation of the Blind Vendors Committee.

## **Meeting #3 –BEP Worksheet (Response Summary)**

### **Rec. 11 – BEP Set-Aside Requirements:**

DVI shall review current set-aside requirements, determine whether they are adequate, and pursue appropriate remedies for inadequacies.

### **■ JLOSC should not consider**

**2 out of 13 respondents selected this option, response summary:**

- There is a policy that covers this and any changes require BVC approval.
- Randolph-Sheppard Act states the set-aside amount.

## **Meeting #3 –BEP Worksheet (Response Summary)**

### **Rec. 12 – BEP Public Outreach:**

DVI shall:

- a. Develop a BEP application.
- b. Update the BEP section of its website to include:
  - (1) BEP educational and outreach materials, including information on the Randolph-Sheppard Act.
  - (2) Links for regulations, rules, policies, or by-laws affecting BEP.
  - (3) Access to the BEP application.

### **■ JLOSC should consider with modifications**

**2 out of 13 respondents selected this option, response summary:**

- The website should be updated to ensure that it is accessible.
- Currently the training for new vendors is 3 months-2 years.
  - A review should be conducted of the courses offered through Hadley School for the Blind and the 11 state modules should be reviewed so that there are no duplications.
- The training should be functional, so that operators can apply their skills on the job.
  - Review training programs offered by other states and research best practices.
  - An outside consultant may be helpful in reviewing training program materials.
  - It should be identified in writing the various levels of licensing and the expectations of the program participant.
- The BVC has formed a committee to work on the development of the website.
  - The BVC wishes to convey the true spirit of the program with operators in their locations so the public can see what they do on a day to day basis.

- The website will be transparent, in that it will include all approved policies, rules, regulations, and by-laws that affect the program as they are updated.
- The BEP program application will be posted to the website.
- BVC will also ensure that changes would be announced on its website, in addition to the BVC monthly meeting agenda posted to the State's Public Meeting Calendar.



## **Meeting #3 –BEP Worksheet (Response Summary)**

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- b. Update the BEP section of its website to include:
  - (1) BEP educational and outreach materials, including information on the Randolph-Sheppard Act.
  - (2) Links for regulations, rules, policies, or by-laws affecting BEP.
  - (3) Access to the BEP application.

### **■ JLOSC should not consider**

**2 out of 13 respondents selected this option, response summary:**

- A BEP application exists but is not on the internet.
  - In order to apply to participate in BEP you must first open a case within the VR program.
- DVI has recently updated their website with BEP information.

## **Meeting #3 –BEP Worksheet (Response Summary)**

### **Rec. 13 – Remove BEP from State Payroll and Pension Systems:**

Option 1: Remove the Blind Vendors of the BEP from the State's payroll and pension system.

- OR -

Option 2: DVI shall submit a detailed proposal to the JLOSC regarding the functionality of the BEP's business and accounting operations without the support of the State's payroll and pension system, including consideration of the impact to current and past BEP participants.

### **■ JLOSC should consider with modifications**

#### **6 out of 13 respondents selected this option, response summary:**

- DVI should consider this a viable option to save the state money and provide a realistic opportunity to grow the program in an authentic and organic way. Business ownership is about learning about all aspects of your business.
- The goal should be to get the vendors off of the state payroll system but still allow them to participate in the state retirement system if they choose. It doesn't seem that either option presented allows this draft recommendation.
- Explore option 2, with the assistance of business experts in the field.
- Consider both options 1 and 2 as an alternative from one or the other.
  - Option 1: Under certain circumstances, age, and length of service, the impact of removal from the State's payroll could be life-altering.
  - Option 2: The ultimate goal of the Agency is for individuals to be independently successful. Therefore, whenever possible, with set criteria, that support gradually be removed as the individual becomes more independent.

- Consider rewriting option 1 to state the following:
  - Option 1: DVI shall transition the Blind Vendors off of the State of Delaware's payroll system. DVI shall work with the Office of Pensions to ensure Blind Vendors pension and pension contributions continue as a participating group of the State Employee Pension Plan.

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Option 2: DVI shall submit a detailed proposal to the JLOSC regarding the functionality of the BEP's business and accounting operations without the support of the State's payroll and pension system, including consideration of the impact to current and past BEP participants.

### **■ JLOSC should not consider**

### **3 out of 13 respondents selected this option, response summary:**

- BVC has already decided to exit the State payroll system by the end of 2019.
  - DVI is out of compliance with federal requirements.
    - DVI is not permitted to pay BEP employees or be involved with BEP operator salaries.
    - BEP should have exited the State's payroll system about 30 years ago.
- BEP operators will have the option to continue paying into the State pension system or could opt for another retirement plan of their choosing, such as an IRA account.
  - Previous operators will not be affected.
- BEP should not be removed from the State payroll or pension system because oversight exists in the payroll system. Removal from the pension system would require operators to fund their own retirements.

## **Meeting #3 –BEP Worksheet (Response Summary)**

### **Rec. 14 – Strengthen State’s Licensing Authority under the Randolph-Sheppard Act:**

DVI shall submit a detailed proposal to the JLOSC regarding legislation and measures to be taken to strengthen the State’s licensing authority under the Randolph-Sheppard Act and to expand vending opportunities in institutions of higher learning, Department of Corrections, and interstate rest areas.

#### **■ JLOSC should consider with modifications**

#### **5 out of 13 respondents selected this option, response summary:**

- DVI must also look at its key personnel that's running the BEP to determine if the required skill sets are there to implement this change.
- BVC is working on a new law that would increase opportunities for the visually impaired. JLOSC should consider sponsoring this legislation.
- DVI should work with the public in creating the proposal via public meetings under the BEP program.
- Recommendation should include the following: “... and to expand vending opportunities [all avenues of business ventures], including institutions of higher learning, Department of Corrections, and interstate rest areas.”
- A detailed outline of how services will be provided to qualified blind operators should be published before legislative changes are explored.
- The BEP program should not continue subcontracting vending and food service operations if additional opportunities are available.
  - The BEP did not bid on DNREC opportunities.

## **Meeting #3 –BEP Worksheet (Response Summary)**

### **Rec. 15 – Strengthen Business Programs:**

The unemployment rate of those who are visually impaired is approximately 70%. DVI shall strengthen business programs and implement technology advances to provide training and employment for Delaware residents who are visually impaired.

#### **■ JLOSC should consider with modifications**

#### **5 out of 13 respondents selected this option, response summary:**

- Technology is important but is just part of the solution.
  - Utilize technology to increase outcomes of Delawareans with visual impairments.
  - Establish or develop partnerships to train visually impaired Delawareans to operate technology so that they are competent and proficient.
- The largest obstacle is that blind individuals are often underestimated. The State of Delaware should be a leader in employing those with disabilities, including those with visual impairments.
- This recommendation as written does not have include suggestions for measureable performance standards and as presented is setting the agency and consumers up for failure.
  - There are many factors that would contribute to success such as funding, legislation, and oversight.
- DVI should provide the data relating to how many Vocational Rehabilitation (“VR”) participants who have not been placed in an employment position.
- DVI should provide a report detailing their current employment ratios and outlining what they are doing to improve them.
- Kent County does not have place for job training.

- DVI's technology employees do not have certification, such as certifications to teach Windows or Apple products, and should obtain certification.
- Consider splitting BEP and other employment services.
- Self-employment is a function of VR and like all employment programs it needs to be strengthened to promote all forms of employment.
- DVI could strengthen the BEP by:
  - Engaging with a subject matter expert to assist in developing a plan to increase VR program employment outcomes.
  - Developing employment training programs that are accessible to visually impaired and blind Delawareans statewide inside the State of Delaware.
  - Consulting with the Delaware DVR and other VR programs nationwide to determine best practices and include them in the VR state plan.
  - Assessing assistive technology needs in the venue for the blind vendor and/or associates to work independently.
  - Providing training and employment for blind vendors and/or associates in:
    - Business procedures.
    - Teamwork & sensitivity training.
    - Financial matters.
    - Assistive technology.
  - Providing training for non-visually impaired associates and employers in:
    - Assistive technology their blind vendors and associates use in their work.
    - Teamwork & sensitivity training.

- BVC is hoping legislation will pass that will open up more opportunities in the BEP.
  - BVC is hoping to add at least 8-10 stand-alone sites in locations such as prisons and colleges.
    - Largest challenge will exist with funding for the purchase of vending machines and technology for blind operator accessibility.